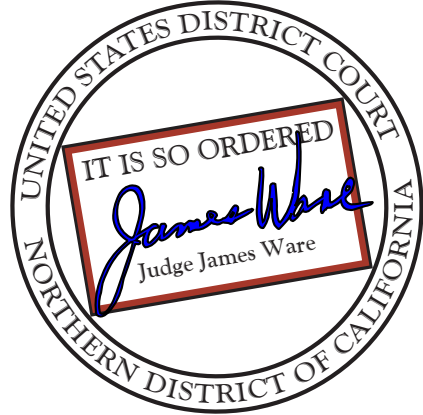


1 KEVIN V. RYAN (SBN 118321)
United States Attorney
2 JOANN M. SWANSON (SBN 88143)
Chief, Civil Division
3 EDWIN L. JOE (SBN 112328)
Special Assistant United States Attorney
4

5 455 Market Street, 6th Floor
6 San Francisco, California 94105-2420
Telephone: (415) 744-8494
7 Facsimile: (202) 481-1810 or (415) 744-6812
8 Email: edwin.joe@sba.gov



9 Attorneys for the Plaintiff

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

14 **UNITED STATES OF AMERICA,**
15 **Plaintiff,**

16 **v.**

17 **ASPEN VENTURES III, L.P**

18 **Defendant.**
19
20
21

)
) **E-Filing**
)

) **Civil Case No. C06-04032 JW**
)

) **JOINT CASE MANAGEMENT**
) **CONFERENCE STATEMENT**
)

) **Date: Nov. 6, 2006**
)

) **Time: 10:00 AM**
)

) **Room: Ctrm 8, 4th Floor**
) **280 South 1st Street**
) **San Jose, CA**

22
23
24 The parties to the above entitled action jointly submit this Case Management
25 Statement and Proposed Order and request the Court adopt it as its Case Management
26 Order in this case.
27

28 //

Description of the Case

1
2
3
4 1. Overview: **ASPEN VENTURES III, L.P.** (“Aspen III”) was licensed by
5 United States Small Business Administration (“SBA”) as a Small Business Investment
6 Company (“SBIC”) under section 301 (c) of 15 U.S.C. §681(c). SBA determined in 2005
7 the SBIC to be capital impaired, unable to cure the capital impairment, and placed in
8 liquidation status. In 2006 SBA obtained the SBIC’s agreement to a Consent Order for
9 Receivership and for SBA to be appointed Receiver by the court.
10

11 2. Thereafter, since the court has jurisdiction over SBIC receiverships, SBA
12 obtained court approval of the Consent Order for Receivership, and SBA was appointed
13 Receiver on October 4, 2006. Currently, there is approximately \$41.8 million (principal)
14 in outstanding Participating Securities purchased by SBA.
15

16 3. Current Status: SBA as Receiver is currently marshalling assets and reviewing
17 the financial records of Aspen III. SBA will file an annual accounting with the court
18 approximately January 2008 for the period between October 4, 2006 and November 30,
19 2007. There are no anticipated issues, factual or discovery disputes between the parties,
20 since Aspen III has fully cooperated with the Receiver.
21

22 4. Since a Consent Order of Receivership has been entered, no trial date is
23 needed. However, overall court supervision¹ post-judgment is needed until the Receiver
24

25 ¹ Typically, SBIC Receivership cases take approximately 1-2 years to complete and
26 the next anticipated motions will be to seek a claims bar date in approximately six
27 months and court approval of the Receiver First Annual Report in approximately 1 year.
28 The court for efficient court administration can *sua sponte* decide to (a) administratively

completes the accounting process, requests the court set a claims bar date for any other potential creditors/claimants, submits accounting reports, completes liquidation of Aspen III, and seeks case closure.

5. Therefore, the parties² respectfully suggest canceling the November 6, 2006, Case Management Conference and all future case management conferences. The Receiver expects to file its first annual accounting for this Receivership approximately January 2008.

UNITED STATES OF AMERICA

Dated: October 26, 2006

/s/ Edwin L. Joe
Edwin L. Joe
Special Assistant United States Attorney

U. S. SMALL BUSINESS ADMINISTRATION
AS RECEIVER FOR ASPEN VENTURES III, L.P.

Dated: _____

by: _____
Beverley Hazlewood Lewis
Trial Attorney

//

//

close this case until such time that the Receiver requests to re-open this case to seek further appropriate court relief and (b) vacate all case management dates.

² By Order entered October 4, 2006, this Court appointed SBA as Receiver for the defendant (Aspen III) and conferred the powers of the general partner solely upon SBA as Receiver. Therefore, SBA, in its capacity as Receiver, is the only authorized representative for the defendant. Accordingly, this statement is being executed by SBA as Receiver for the defendant.

1 completes the accounting process, requests the court set a claims bar date for any other
2 potential creditors/claimants, submits accounting reports, completes liquidation of Aspen
3 III, and seeks case closure.

4
5 5. Therefore, the parties² respectfully suggest canceling the November 6, 2006,
6 Case Management Conference and all future case management conferences. The
7 Receiver expects to file its first annual accounting for this Receivership approximately
8 January 2008.

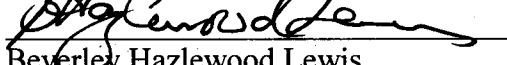
9
10 UNITED STATES OF AMERICA

11 Dated: _____

12 by: _____
13 Edwin L. Joe
14 Special Assistant United States Attorney

15 U. S. SMALL BUSINESS ADMINISTRATION
16 AS RECEIVER FOR ASPEN VENTURES III, L.P.

17 Dated: 10/20/06

18 by: 
19 Beverley Hazlewood Lewis
20 Trial Attorney

21 //

22 //

23 close this case until such time that the Receiver requests to re-open this case to seek
24 further appropriate court relief and (b) vacate all case management dates.

25 ² By Order entered October 4, 2006, this Court appointed SBA as Receiver for the
26 defendant (Aspen III) and conferred the powers of the general partner solely upon SBA
27 as Receiver. Therefore, SBA, in its capacity as Receiver, is the only authorized
28 representative for the defendant. Accordingly, this statement is being executed by SBA
as Receiver for the defendant.


CASE MANAGEMENT ORDER

This Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders:

1. The Case Management Conference for November 6, 2006 at 10:00 AM is hereby cancelled and no further case management dates are to be set.

2. The court also *sua sponte* orders this case administratively closed with the Receiver permitted to re-open the case at a later time to seek additional appropriate post-judgment court relief.

Dated: November 1, 2006



HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE

Proof of Service by Mail

I declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is United States Small Business Administration, 455 Market Street, 6th Floor, San Francisco, CA 94105-2420. I am readily familiar with the business practices of this office for collection and processing of correspondence by mailing with the United States Postal Service.

On October 26, 2006, I served the within:

**JOINT CASE MANAGEMENT CONFERENCE STATEMENT AND
(PROPOSED) ORDER**

on the persons addressed as shown below in said cause by placing a true and correct copy thereof in sealed envelopes for collection and mailing pursuant to the ordinary business practice of this office whereby correspondence for mailing is collected, postage is pre-paid and depositing with the United States Postal Service on the same day at San Francisco, California.

BEVERLEY HAZLEWOOD LEWIS
Trial Attorney
U.S. Small Business Administration
409 Third Street, S.W., Suite 7200
Washington, D.C. 20416

E. DAVID CROCKETT
10898 Mora Drive
Los Altos Hills, CA 94024

I declare under penalty of perjury under Federal law and laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 26, 2006, at San Francisco, California.



Twyla Dyck
Legal Assistant